

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No.14807 of 2019
and WMP.No.14792 of 2019

S.Krithika

.. Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by its Secretary,
Municipal Administration and
Water Supply Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2. The Greater Corporation of Chennai,
Rep. by its Special Officer and Commissioner,
Ripon Buildings, No.1131, EVR Periyar Salai,
Park Town, Chennai - 600 003.

3. The Zonal Officer / Assistant Commissioner,
Zonal Office - 11, 33, Arcot Road,
Valasaravakkam, Chennai - 600 087.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the second respondent from collecting any amount for the usage of existing skating rink provided by the first respondent in Corporation Park, Ward-151, Poothamedu, Chinna Porur and permit the public to use the skating ring continuously as earlier, as the same has been provided by the first respondent as free to the public.

For Petitioner .. Mr.Thiagarajan, P.

For Respondents.. Mr.R.Vijayakumar, AGP for R1

Mr.K.Raja Shrinivas for R2 & R3

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the first respondent and also the learned Standing Counsel appearing for the Corporation of Chennai.

2.The grievance of the petitioner is that for the public park, which is being used as Skating Rink, fee is being collected.

3.The learned standing counsel appearing for the respondent-Corporation of Chennai placing reliance upon the counter affidavit filed and the order passed by the Division Bench of this Court in W.P.No.9683 of 2019 dated 11.06.2019 submitted that hitherto without authority of law, some unknown individuals were collecting the fees. Taking note of the abovesaid position, tenders have been called for and confirmed in favour of one Mullaimalar. He further submitted that when an identical writ petition was filed by one M/s AGEI Foundation in W.P.No.9683 of 2019 of 2019, it was dismissed by an order dated 11.06.2019, wherein in paragraph 10 it has been held as follows:

"14. Act does not prohibit the work of maintaining the play fields to be entrusted to an agency, which is responsible for upgrading the play fields, operating and maintaining them upto the desired standards. Petitioner has contended that merely above work is given to the 3rd respondent, there would be vesting of property, in the hands of the 3rd respondent. Play fields belonging to the local body or vested in it, would continue to be same, and apprehension of the petitioner is not well founded. Tender has been finalised and work order is issued.

15. In the light of the above discussion, we do not find any merit in the writ petition. Accordingly, the same is dismissed. No Costs. Consequently, the connected writ miscellaneous petition is closed."

4. From the counter affidavit filed by the respondent-Corporation and on a perusal of the order passed by this Court referred supra, a decision to go for tender has been made pursuant to the resolution passed. The right to collect the fees has also been auctioned and the successful tenderer is collecting the fees as of now. The challenge made earlier was also upheld by this Court. The petitioner has not challenged the proceedings initiated as aforesaid. Further, any relief sought for cannot be granted by this Court in the absence of the successful tenderer and the same would amount to setting aside the award of contract without hearing her, especially when the third party interest has already crept in. Thus, we do not find any merit in this writ petition and the same is liable to be dismissed.

5.The writ petition stands dismissed accordingly. No costs.
Consequently, connected miscellaneous petition is also dismissed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

raa/kmk

To

- 1.The Secretary, State of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Secretariat, Fort St.George, Chennai - 600 009.
- 2.The Special Officer and Commissioner,
Greater Corporation of Chennai,
Ripon Buildings, No.1131, EVR Periyar Salai,
Park Town, Chennai - 600 003.
- 3.The Zonal Officer / Assistant Commissioner,
Zonal Office - 11, 33, Arcot Road,
Valasaravakkam, Chennai - 600 087.

W.P.No.14807 of 2019

KJ(CO)
SP(28/10/2020)

सत्यमेव जयते
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